

REGULAR MEETING MINUTES
CITY COUNCIL OF THE CITY OF BATH, MAINE
Wednesday, January 2, 2019, 6:00 PM
Bath City Hall Council Chambers

Present: Councilor Bailey, Councilor Paulhus, Councilor Nordmann was excused, Councilor Wyman, Councilor Comeau, Councilor Bauer, Councilor Park, Councilor Ambrosino and Madame Chair Eosco

Also, in attendance, were Peter Owen, City Manager, Roger Therriault, City Solicitor and Mary C. Howe, Deputy City Clerk

Madame Chair Eosco led the Pledge of Allegiance and Deputy City Clerk, Howe called the Roll.

ROLL CALL:

Councilor Bailey, Councilor Paulhus was absent for the roll call, Councilor Nordmann was excused, Councilor Wyman, Councilor Comeau, Councilor Bauer, Councilor Park and Councilor Ambrosino

RECOGNITION TO OUTGOING CITY CLERK:

Madame Chair Eosco thanked, newly retired, Mary White for her many years of dedicated service. Mary has taken good care of the City and the Council, and has left her mark in a very big way. Madame Chair Eosco, also, wished Mary and her husband, Les, who retired on the same day, a quiet time to themselves. Mary's retirement is well deserved and the City will surely miss "Mother Mary".

APPOINTMENT:

Mary Howe, Deputy City Clerk was, unanimously, appointed Interim City Clerk by the Council and was sworn in by Roger Therriault, City Solicitor.

PRESENTATION:

Madame Chair Eosco presented Darreby Ambler with the "Citizen of the Year" award for her faithful service to the community. Darreby expressed much appreciation for this award.

Madame Chair Eosco announced the Public Hearing portion of the meeting with two ordinances.

C. Public Hearing: 6:01 PM

- 1) Ordinance – Supplemental Appropriation for the 2008 Landfill Debt payment of \$194,000.00. (second passage)

Madame Chair Eosco read the following ordinance.

ORDINANCE
SUPPLEMENTAL APPROPRIATION

WHEREAS, the City Council of the City of Bath desires to fund a debt payment for the 2008 Landfill Bond; and

WHEREAS, those funds were inadvertently left out of the current fiscal year Budget (2018/2019); and

WHEREAS, the payment is due in January; and

WHEREAS, surplus funds in the General Fund Undesignated Fund Balance Account, are available to fund the Bond payment and such funds constitute revenue in excess of those estimated in the Budget for the current fiscal year and are available for that purpose; and

WHEREAS, the sum to be appropriated by this Supplemental Appropriation totals One Hundred and Ninety-Four Thousand Dollars (\$194,000.00); and

WHEREAS, the City Manager has certified that there are available revenues for appropriation to at least the extent of One Hundred and Ninety-Four Thousand Dollars (\$194,000.00), pursuant to the requirements of Section 611 (A) of the Charter of the City of Bath; and

WHEREAS, this sum will not exceed the expenditure limits for the current fiscal year pursuant to Section 617 of the Charter of the City of Bath.

NOW THEREFORE, be it ordained by the City Council of the City of Bath that the total sum of One Hundred and Ninety-Four Thousand Dollars (\$194,000.00) be and hereby is supplementally appropriated from the General Fund Undesignated Fund Balance (Account GF-2500) to the 2008 Landfill Bond Payment Account (Account 06-0667-707).

CERTIFICATION OF REVENUES IN EXCESS OF BUDGET ESTIMATES

I, Peter H. Owen, pursuant to Section 611 (A) of the Charter of the City of Bath, hereby certify to the City Council of the City of Bath that there are available for appropriation revenues in excess of those estimated in the Budget, to the extent of at least One Hundred and Ninety-Four Thousand Dollars (\$194,000.00). The source of these funds is additional surpluses in the General Fund Undesignated Fund Balance Account which have been verified over and above those included in revenue in the 2018/2019 Fiscal Year Budget. The amount of surplus has been verified by the Auditor and is available for supplemental appropriation pursuant to the opinion of the City Solicitor and Bond Counsel.

Respectfully Submitted,

Peter H. Owen
City Manager

Councilor Wyman motioned to waive the reading and to put the ordinance on the floor for discussion and Councilor Bauer seconded the motion. Madame Chair Eosco asked Juli Millett, Finance Director, to give a recap of the appropriation.

Juli Millett reminded everyone that the Supplemental Appropriation was, accidentally, left out of the budget and that this passage will add it back in. She stated that the funds will come from the general fund surplus so there will be no other changes to the budget. Madame Chair Eosco asked if the Council or the public had any questions and there were none.

ROLL CALL VOTE:

YEAS: Councilors, Bailey, Paulhus, Wyman, Comeau, Bauer, Park and Ambrosino

NAYS: None

Ordinance Passed Unanimously, 7-0

This ordinance goes into effect immediately.

Public Hearing: 6:02 PM

2) *Ordinance – LUC Amendment, Article 16, by replacing Section 16.25 - 8 State Road District. (second passage)*

Madame Chair Eosco read the following ordinance.

ORDINANCE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BATH THAT THE LAND USE CODE OF THE CITY OF BATH ADOPTED JULY 19, 2000, AND SUBSEQUENTLY AMENDED, BE HEREBY FURTHER AMENDED AS FOLLOWS:

Amend Article 16, by replacing Section 16.25 with the following:

SECTION 16.25 - 8 STATE ROAD DISTRICT

A. District Designation

The property designated for contract rezoning is the property located on State Road, being identified as Lot 65, on City of Bath Tax Map 31 dated April 1, 2016.

B. Findings

The property is located in the Route 1 Commercial Contract Zone (C-4) Zoning District. The City Council makes the following additional findings:

1. Contract Rezoning is allowed in the Route 1 Commercial Contract Zone.
2. The project consists of one structure along the 1.1 acre parcel. The proposed structure is 9,242 square feet and will consist of a 1,767 square foot Laundromat, a 4,130 square foot exercise center, and a 3,345 square foot brewery and tasting room.
3. Without the creation of a contract zone, the minimum yard area is 20 feet from the side, front, and rear of the parcel. The parking lot is proposed to be constructed in the yard area, necessitating contract zoning.
4. Contract rezoning is allowed on the parcel per section 8.10 (B) of the Land Use Code.
5. The project is consistent with the mandatory conditions set forth in Land Use Code Section 8.20 paragraph D, 1.
6. The applicant is proposing the following voluntary, Discretionary Conditions in exchange for Contract Rezoning. For the Contract Rezoning the applicant will:
 - Work to meet the City's goal of increased pedestrian access to services by installing a sidewalk along the property to connect with future expected development.
 - In addition to applicable zoning requirements the applicant will incorporate additional lighting along the front of the property to enhance the site.
 - Install a catch basin and related improvements to assist in storm water management both on and offsite.
 - Improve the appearance of the State Road gateway with enhanced lighting and landscaping.

C. Zoning Provision Affected

This contract zoning amendment is intended to relax the minimum setback and yard area requirements pursuant to Section 8.10 of the Land Use Code, by allowing the construction of the structures and other site improvements depicted on the Site Plan approved, with conditions, by the Bath Planning Board on July 10, 2018 and amended, without conditions, by the Bath Planning Board on November 6, 2018.

D. Conditions of Approval

This Contract Rezoning Ordinance requires full and complete compliance with all conditions of approval, which are part of the Site Plan approval, granted to Mark Sewall, by the Bath Planning Board on July 10, 2018 and amended on November 6, 2018.

SECTION 16.25 - 8 STATE ROAD DISTRICT

E. District Designation

The property designated for contract rezoning is the property located on State Road, being identified as Lot 65, on City of Bath Tax Map 31 dated April 1, 2016.

F. Findings

The property is located in the Route 1 Commercial Contract Zone (C-4) Zoning District. The City Council makes the following additional findings:

7. Contract Rezoning is allowed in the Route 1 Commercial Contract Zone.
8. The project consists of one structure along the 1.1 acre parcel. The proposed structure is 9,242 square feet and will consist of a 1,767 square foot Laundromat, a 4,130 square foot exercise center, and a 3,345 square foot brewery and tasting room.
9. Without the creation of a contract zone, the minimum yard area is 20 feet from the side, front, and rear of the parcel. The parking lot is proposed to be constructed in the yard area, necessitating contract zoning.
10. Contract rezoning is allowed on the parcel per section 8.10 (B) of the Land Use Code.
11. The project is consistent with the mandatory conditions set forth in Land Use Code Section 8.20 paragraph D, 1.
12. The applicant is proposing the following voluntary, Discretionary Conditions in exchange for Contract Rezoning. For the Contract Rezoning the applicant will:
 - Work to meet the City's goal of increased pedestrian access to services by installing a sidewalk along the property to connect with future expected development.
 - In addition to applicable zoning requirements the applicant will incorporate additional lighting along the front of the property to enhance the site.
 - Install a catch basin and related improvements to assist in storm water management both on and offsite.
 - Improve the appearance of the State Road gateway with enhanced lighting and landscaping.

G. Zoning Provision Affected

This contract zoning amendment is intended to relax the minimum setback and yard area requirements pursuant to Section 8.10 of the Land Use Code, by allowing the construction of the structures and other site improvements depicted on the Site Plan approved, with conditions, by the Bath Planning Board on July 10, 2018 and amended, without conditions, by the Bath Planning Board on November 6, 2018.

H. Conditions of Approval

This Contract Rezoning Ordinance requires full and complete compliance with all conditions of approval, which are part of the Site Plan approval, granted to Mark Sewall, by the Bath Planning Board on July 10, 2018 and amended on November 6, 2018.

Councilor Park made a motion to waive the reading, seconded by Councilor Comeau. All were in favor to waive the reading.

Madame Chair Eosco asked if there was a motion to put the ordinance on the floor for discussion. Councilor Bauer made a motion and it was seconded by Councilor Bailey. Madame Chair Eosco asked Mr. Averill to remind everyone what the Land Use Code Amendment pertained to.

Ben Averill, Director of Planning and Development, stated that the LUC Amendment was for contract rezoning at 8 State Road. This was, previously seen by the Council in 2018 and is a second passage. The reason for the amendment is a small change to the site plan. The applicant did go through the process with the Planning Board to amend the site plan and they determined they needed to construct one building instead of two; so they added about 200 square feet to combine

the two buildings, originally approved into one. Mr. Averill was happy to answer any questions and Madame Chair Eosco asked if there were any preliminary questions.

Mark Sewall, of Pine Tree Engineering, displayed the site plans and stated that there would be an improvement to State Road. The pile that is there now looks deceiving because they had to pre-load the site. The grade will be about two feet above State Road level and will help with flooding. The site plan reveals a new 9,200 square foot structure that would include a 3,400 square foot brewery/tasting room, 1,800 square foot self-service laundromat, 4,100 square foot gym, sidewalk, additional lighting and a catch basin for storm water. Depending on the weather, the project tentatively could begin in March. The completion of the project is expected, sometime, in July but will depend upon when construction begins.

Madame Chair Eosco asked if anyone, from the public, had any questions about the change in the land use code.

ROLL CALL VOTE:

YEAS: Councilors, Ambrosino, Park, Bauer, Comeau, Wyman, Paulhus and Bailey

NAYS: 0

Ordinance Passed Unanimously, 7-0

Madame Chair Eosco stated that this amendment will become law in 21 days.

D. Consent Agenda: 6:15 PM

*3) Minutes of the previous Council Organizational/Regular Meetings of December 5, 2018 and Items K6, K7, K8. (Motion to Accept as Presented)

Councilor Bauer made a motion, seconded by Councilor Paulhus, to accept the minutes, with corrections, for the December 5, 2018 organizational and regular meeting minutes. Also, accepted, were items K6, K7 and K8. All were in favor to accept the minutes with the amendments.

E. Time Devoted to Residents to Address the City Council

Bill Marsh, of 15 Meadow Way, spoke out against the paper bag fee which is part of the plastic bag ban. He would like to see this fee removed from the Refuse Ordinance.

F. Ordinances, Resolutions and Orders

4) Order – Appointing Registrar of Voters with term ending December 2020

Madame Chair Eosco read the following order:

ORDER

APPOINTING REGISTRAR OF VOTERS

WHEREAS, Title 21-A Section 101 requires the Municipal Officers shall appoint a qualified Registrar of Voters by January 1 of each odd numbered year.

NOW, THEREFORE, be it ordered by the City Council of the City of Bath that Mary Howe be and hereby is appointed Registrar of Voters for the City of Bath with a term to expire December 31, 2020.

Madame Chair Eosco made a motion to put this order on the floor for a vote. Councilor Bauer made the first motion and it was seconded by Councilor Bailey.

VOTE ON ORDER: 6:25 PM

YEAS: 7

NAYS: 0

Order Passed Unanimously, 7-0

5) Approval of Federal Communications Letter

Madame Chair Eosco read a letter, to the Council, addressed to the Federal Communications Commission.

Madame Chair Eosco motioned to put the letter on the floor for discussion. Councilor Paulhus motioned and it was seconded by Councilor Park.

Marc Meyers, Assistant City Manager, stated that the FCC has released a rule making proposal that could eliminate the franchise fees that the City receives. Right now, per our cable franchise agreement, the City receives 5% fee of its gross annual revenues from subscribers in the City. Those proceeds are used to support the operating budget of BCTV. In discussion with the City Manager and City Solicitor, they thought it best that the City Council take a stance in this matter. Currently, it is in the rule making process. They have closed the initial part of the FCC public comment period for the rule making proposal but it is a topic, definitely, still in discussion. We do not know when this will take effect. Mr. Meyers stated that the Council will be voting tonight to approve this letter to be sent to the FCC to express the concerns about the proposal.

VOTE ON LETTER:

YEAS: 7

NAYS: 0

Passed unanimously, 7-0

G.Petitions & Communications 6:34 PM

There were no petitions or communications taken up at this time.

H.City Manager's Report 6:34 PM

Peter Owen, City Manager, reported on some upcoming highlights of 2019. He's looking forward to implementing some things this year. We should see the results of the south end transportation study which was started a while ago. We are, also, making progress on the river walk which is a project that got stalled but he is hoping to get some results this summer. In addition, he mentioned the sidewalk for Commercial Street that should be coming this summer. We are looking into modifying the intersection of Elm Street and Front. We are looking to see improvements to that and will be hiring a consultant. We are, also, doing a comprehensive action plan upgrade so you'll be hearing more about it this summer. The City has, also, started a monthly newsletter. We had our first issue out in December. We are, also, looking at reviewing the parking in the downtown area.

I.Committee Reports 6:37 PM

Councilor Bailey reported that there will be a public meeting for the south end transportation study on January 31st. The appointment screening committee has been really active and we are about to start another wave of reviews. She, also, stated how thankful she was with all of the people willing to volunteer.

Councilor Park reported that there will be a "Welcome to Bath" on Monday, January 28th at the Maritime Museum. Please refer to Visitbath.com, Main Street's Facebook page or the City of Bath's newsletter for more information.

Councilor Ambrosino reported that there will be a financial committee meeting coming up on Thursday, January 24th.

Madame Chair Eosco recapped about the Council's committees. She stated that it takes a while to get familiar and become effective on a committee. One of the things talked about, at the workshop, was making sure the committees had obtainable goals that can, hopefully, be achieved in 2019. Madame Chair Eosco recommended that Councilors put goals on their agendas for their upcoming meetings.

J.Unfinished Business 6:41 PM

K.New Business 6:41 PM

- *6) Annual Appointment of Scott Davis as Codes Enforcement Officer, Health Officer and Plumbing Inspector for one year, pursuant to State Statutes. (motion to appoint)
- *7) Annual Appointment of Tom Lister as Alternate Codes Enforcement Officer and Local Plumbing Inspector for the City of Bath for one year, pursuant to State Statutes. (motion to appoint)
- *8) Annual Appointments to Committees by Council Nominees:
 - Bath Housing Authority Board of Directors – Terry Nordmann
 - Midcoast Council of Governments – Mari Eosco, Bernard Wyman, David Comeau
 - Patten Free Library Board of Directors – Susan Bauer
 - Recreation Commission – Julie Ambrosino
 - Sidewalk Vending License Committee – Aaron Park
 - Student Community Liaison Council – Mari Eosco
 - Welfare Review Board – Phyllis Bailey, David Comeau, Terry Nordmann

L.Councilor Announcements 6:41 PM

Councilor Paulhus brought up the 2020 Bi-Centennial. He's hoping that he will have more information, in the near future, of what the committee will look like. Councilor Paulhus mentioned that he saw the Secretary of State and made a comment to him about the Bi-Centennial website and that he offered some suggestions about updating it. The goal is to celebrate the entire time period and to understand what 200 years looks like for the State and the City of Bath. He, also, reminded Councilors that this was an historic day for Maine as the first woman Governor, Janet Mills, would be inaugurated this evening.

Councilor Comeau commented that the Paul Revere bell ringing was well attended. It was an excellent affair and he was surprised by all of the people who attended.

Councilor Bailey wanted to acknowledge the great job Lindsey Goudreau, Marketing and Communication Specialist, has done with the newsletter. She encourages people to send in their emails, so that they can receive the monthly newsletter. She wanted to thank Main Street Bath, Chocolate Church and all the other organizations who worked throughout the holiday season

Councilor Chair Eosco made a motion to go into executive session to discuss real estate and personnel matters.

Councilor Paulhus motioned, seconded by Councilor Park. **The meeting adjourned at 6:58 PM.**

All were in favor to go into executive session.

EXECUTIVE SESSION:

Real Estate Matter per 1 MRSA §405(6)(C), High Street and to
Discuss Personnel Matter per 1 MRSA §405(6)(A)

A motion was made by Councilor Bauer and seconded by Councilor Ambrosino to conclude the executive session.

Motion to adjourn was at 7:34 p.m. by Councilor Bailey, seconded by Councilor Comeau.

Attest:

Mary C. Howe

Mary C. Howe, Interim City Clerk

Please note: These minutes are not recorded verbatim. A DVD recording of the meeting is available for review in the City Clerk's office during regular business hours by appointment. You can also view them on Townhallstreams.com for up to a year.